



PUBLIC NOTICE
FEDERAL COMMUNICATIONS COMMISSION
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WASHINGTON, D.C. 20554

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April 18, 2002

**DUE DILIGENCE ANNOUNCEMENT
FOR THE UPCOMING AUCTION OF LICENSES IN THE
698-746 MHz BAND
SCHEDULED FOR JUNE 19, 2002**

Report No. AUC-02-44-C (Auction No. 44)

This Public Notice provides due diligence information, as of April 11, 2002, for potential bidders in the upcoming auction of licenses in the 698-746 MHz ("Lower 700 MHz") band, scheduled for June 19, 2002.¹ The information provided by this Public Notice is intended to aid potential bidders with their research and evaluation of the spectrum in the Lower 700 MHz band. Potential bidders should thoroughly research the nature and extent of existing and possible broadcast encumbrances in the Lower 700 MHz band (channels 52-59) as well as on adjacent channels (e.g., channels 51 and 60).

In the *Lower 700 MHz Report and Order*,² the Commission adopted allocation and service rules for the spectrum in the Lower 700 MHz band in order to reclaim and license this band to new services in accordance with statutory mandate.³ This *Report and Order* has been the subject of certain petitions for reconsideration. Potential bidders are reminded that certain filings, including these petitions for reconsideration, are pending before the Commission and resolution of these matters could affect the availability of spectrum in Auction No. 44. While the Commission will continue to act on such pending matters, some of these matters may not be resolved before the commencement of Auction No. 44.

To aid potential bidders, attached to this Public Notice is a list of matters that are known to be pending before the Commission, as of April 11, 2002, and that may relate to the Lower 700 MHz band (see **Attachment A**). The petitions for reconsideration (PFR) listed in this attachment are publicly available on the Commission's Electronic Comment Filing System (ECFS) database on the Internet at <http://www.fcc.gov/e-file/ecfs.html>. Potential bidders should be aware that certain parties may have filed comments, oppositions and/or replies to these petitions. These filings are also available through ECFS. The Commission makes no representations or guarantees that the listed matters are the only pending matters that could affect the availability of spectrum in the Lower 700 MHz band.

Copies of the pleadings related to the matters listed in **Attachment A** to this Public Notice may be obtained from the Commission's duplicating contractor, Qualex International, 445 12th Street, SW,

¹ See Auction Of Licenses in the 698-746 MHz Band Scheduled for June 19, 2002, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures, *Public Notice*, DA 02-563 (rel. March 20, 2002).

² Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), GN Docket No. 01-74, *Report and Order*, 17 FCC Rcd 1022 (2002) (*Lower 700 MHz Report and Order*).

³ See 47 U.S.C. §309(j).

Room CY-B402, Washington, DC 20554, or from the Office of Public Affairs, Wireless Telecommunications Bureau, 445 12th Street, SW, Room CY-C314, Washington, DC 20554.

The reclamation of the Lower 700 MHz band and the radio spectrum at 746-806 MHz is occurring as a result of the conversion of television broadcasting from analog to digital transmission systems together with the planned migration of broadcasters into core Channels 2-51. Currently, each television station has been temporarily assigned a second TV channel on which to broadcast its digital signal, while the original channel continues broadcasting the analog signal. Section 309(j) of the Communications Act requires analog broadcasters to cease operation in the recovered spectrum by the end of 2006 unless the Commission extends the end of the transition.⁴ However, licensees of new services in the Lower 700 MHz band will be permitted to operate during this transition provided they do not interfere with TV or DTV operations. Potential bidders should familiarize themselves with the policies regarding the transition to DTV.⁵

Accordingly, potential bidders should be aware that there are a number of incumbent licensees currently authorized to operate in the Lower 700 MHz band (channels 52-59) plus adjacent channels (*e.g.*, channels 51 and 60), and that incumbents may have multiple authorizations (*e.g.*, a license and a construction permit (CP) or modified CP). These incumbents may also have pending applications to make changes in authorized facilities.

To aid potential bidders with their research, attached to this Public Notice is a list of incumbent licensees, permittees and/or applicants in the Lower 700 MHz band, as of April 11, 2002 (*see Attachments B and C*). This list was generated using the Media Bureau's licensing database, called the Consolidated DataBase System (CDBS). This list is divided into NTSC records (**Attachment B**) and DTV records (**Attachment C**). Potential bidders may use this list to research additional information about these licensees, permittees and/or applicants, including technical data for specific authorizations or pending applications. This list contains information regarding adjacent channels because new licensees are required to provide interference protection to licensees operating on adjacent channels (*e.g.*, channels 51⁶ and 60). The Commission makes no representations or guarantees that the listed licensees are the

⁴ 47 U.S.C. § 309(j)(14)(A)-(B). As provided in the statute, the Commission is required to extend the end of the transition at the request of individual broadcast licensees on a market-by-market basis if one or more of the four largest network stations or affiliates are not broadcasting in digital, digital-to-analog converter technology is not generally available, or 15 percent or more of television households are not receiving a digital signal. *Id.* § 309(j)(14)(B)(i)-(iii).

⁵ *See generally* Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, 14 FCC Rcd 1348 (1998) (*DTV Second MO&O of the Fifth and Sixth Report and Orders*); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, 13 FCC Rcd 7418 (1998) (*DTV MO&O of the Sixth Report and Order*); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order*, 13 FCC Rcd 6860 (1998) (*DTV MO&O of the Fifth Report and Order*); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Sixth Report and Order*, 12 FCC Rcd 14588 (1997) (*DTV Sixth Report and Order*); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Fifth Report and Order*, 12 FCC Rcd 12809 (1997) (*DTV Fifth Report and Order*); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Sixth Further Notice of Proposed Rule Making*, 11 FCC Rcd 10968 (1996) (*DTV Sixth Further Notice*) (collectively "DTV proceeding").

⁶ This list does not contain information concerning Class A stations. Class A stations are not protected in the Lower 700 MHz band; *see Lower 700 MHz Report and Order*, 17 FCC Rcd at 1036 ¶ 31. However, potential

only licensees, permittees and/or applicants that could affect spectrum availability or operations in the Lower 700 MHz band.

Potential bidders should be aware that there may be pending applications proposing to modify or establish new, NTSC and DTV channels, and should use CDBS to research these applications. Potential bidders should also be aware that there may be pending rulemaking petitions proposing to change or to create new NTSC and DTV allotments that could affect the availability of spectrum in the Lower 700 MHz band.⁷ The Media Bureau periodically updates a list of these changes for NTSC at <http://www.fcc.gov/mb/video/files/ntscchan.html> and DTV at <http://www.fcc.gov/mb/video/files/dtvchan.html>. For additional information, contact Nazifa Naim of the Media Bureau at (202) 418-7059, or by email at nnaim@fcc.gov.

Potential bidders should also be aware that, in the *Lower 700 MHz Report and Order*, the Commission ordered the dismissal of certain pending petitions for new NTSC channel allotments in the Lower 700 MHz band.⁸ In the *Lower 700 MHz Report and Order*, the Commission also ordered the dismissal of certain pending applications for construction permits (some of which also included a petition for modification of an existing allotment); however, the Commission provided a 45-day opportunity for these applicants to request a change in their pending applications for a construction permit or petition for rule making.⁹ Potential bidders should be aware that these decisions are the subject of certain petitions for reconsideration now pending before the Commission, and the staff's implementation of the Commission's policy may also be the subject of petitions for reconsideration.

Potential bidders are solely responsible for identifying associated risks, and investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 44.

Potential bidders may obtain information about licenses available in Auction No. 44 through CDBS on the Internet at http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/cdb_pa.htm or at <http://www.fcc.gov/mb/> (by using the "MB Shortcuts" drop down menu and selecting the "CDBS Access" listing located under the section entitled "Filing & Data"). Potential bidders may query the database online and download a copy of their search results if desired. Potential bidders may search for station information (at http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/sta_sear.htm) and/or application information (at http://svartifoss2.fcc.gov/prod/cdb/pubacc/prod/app_sear.htm). The database searches return either station or application data. The application search provides an application link that displays the complete electronically filed application in application format. An AL/TC search under the application search link permits searching for Assignment of License/Transfer of Control groups using the AL/TC group lead application. In conducting database searches with respect to a given facility,

bidders should be aware of such operations on channel 51, where Class A stations are accorded primary status as television broadcasters as long as they continue to meet the requirements set forth in the statute for a qualifying low-power station. *Id.* at 1036 n.94; *see also* Establishment of a Class A Television Service, *Report and Order*, MM Docket No 00-10, 15 FCC Rcd 6355, 6358-59 ¶¶ 4-6 (2000) (*Class A Report and Order*). Class A station information is available through CDBS.

⁷ To review the Table of Allotments for both analog ("NTSC") and digital television ("DTV"), see 47 C.F.R. §§ 73.606 and 73.622, respectively.

⁸ *See Lower 700 MHz Report and Order*, 17 FCC Rcd at 1042 ¶ 44.

⁹ *See id.* at 1042 ¶ 45. Applications were permitted to be modified in one of two ways: (1) to provide analog or digital service in the core television spectrum, *i.e.*, channels 2-51 or (2) to provide digital service in the 698-740 MHz band, *i.e.*, channels 52-58.

it is recommended to use that station's "facility I.D. number" (the unique integer number – assigned by MB – that identifies a station). Potential bidders may also search for ownership information and antenna information, and may download engineering data. Detailed instructions on using the CDBS is available online at http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/help_pa.htm or by clicking on the "Help" file. Potential bidders should direct questions regarding the search capabilities of CDBS to the Media Bureau help line at (202) 418-2662, or via e-mail at mbinfo@fcc.gov.

The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases, including the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the databases. **Potential bidders are strongly encouraged to physically inspect any sites located in, or near, the geographic area for which they plan to bid.**

For further information, contact Melvin Spann, at (202) 418-1333, Room 4-C110, Licensing and Technical Analysis Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, 445 12th Street, SW, Washington, DC 20554; or Gordon Godfrey, at (202) 418-2193, Room 4-C458, Engineering Division, Media Bureau, 445 12th Street, SW, Washington, DC 20554; or Evan Baranoff, at (202) 418-7142, Room 4-B555, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, 445 12th Street, SW, Washington, DC 20554.